

# EXHIBIT D



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<p style="text-align: right;">Page 2</p> <p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5 April 23, 2020</p> <p>6 Videotaped-telephonic deposition, taken</p> <p>7 remotely via videoconference and teleconference,</p> <p>8 of David Buck, located at 33 Meade Road, Ambler,</p> <p>9 Pennsylvania 19002, by Debra Sapio Lyons, a</p> <p>10 Registered Diplomat Reporter, a Certified</p> <p>11 Realtime Reporter, a Certified Realtime</p> <p>12 Captioner, a Certified LiveNote Reporter, an</p> <p>13 Approved Reporter of the United States District</p> <p>14 Court for the Eastern District of Pennsylvania, a</p> <p>15 Certified Court Reporter of the State of New</p> <p>16 Jersey, and a Notary Public of the States of New</p> <p>17 Jersey, New York and the Commonwealth of</p> <p>18 Pennsylvania.</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 3</p> <p>1 APPEARANCES:</p> <p>2 (All Counsel and Participants</p> <p>3 present via videoconference and</p> <p>4 teleconference due to COVID-19</p> <p>5 Restrictions.)</p> <p>6 DUANE MORRIS</p> <p>7 BY: DAVID WOLFSOHN, ESQUIRE</p> <p>8 TYLER MARANDOLA, ESQUIRE</p> <p>9 30 South 17th Street</p> <p>10 Philadelphia, Pennsylvania 19103</p> <p>11 Attorneys for Plaintiff</p> <p>12</p> <p>13 MITCHELL SILBERBERG &amp; KNUPP</p> <p>14 BY: PAUL MONTCLARE, ESQUIRE</p> <p>15 ELAINE NGUYEN, ESQUIRE</p> <p>16 437 Madison Avenue</p> <p>17 New York, New York 10022</p> <p>18</p> <p>19 AND</p> <p>20 BY: MATTHEW WILLIAMS, ESQUIRE</p> <p>21 1818 N Street N.W.</p> <p>22 Washington, DC 20036</p> <p>23 Attorneys for Defendants</p> <p>24</p> <p>25 ALSO PRESENT:</p> <p>CHRIS JORDAN, VIDEOGRAPHER</p> <p>TSG REPORTING, INC.</p>
<p style="text-align: right;">Page 4</p> <p>1 Confidential - D. Buck</p> <p>2 THE VIDEOGRAPHER: Good morning. My</p> <p>3 name is Chris Jordan. I'm the legal</p> <p>4 videographer in association with TSG</p> <p>5 Reporting, Inc. Due to the severity of the</p> <p>6 COVID-19 and following the practice of</p> <p>7 social distancing, I will not be in the</p> <p>8 same room with the witness, but will record</p> <p>9 this videotaped deposition remotely.</p> <p>10 The reporter, Debra Lyons, also will</p> <p>11 not be in the same room and will swear the</p> <p>12 witness remotely.</p> <p>13 All parties stipulate to the</p> <p>14 validity of this video recording and remote</p> <p>15 swearing and that it will be admissible in</p> <p>16 the courtroom as if it had been taken</p> <p>17 following Rule 30 and other rules of the</p> <p>18 Federal Rules of Civil -- Civil Procedures?</p> <p>19 MR. WOLFSOHN: David Wolfsohn for</p> <p>20 The Phillies, yes --</p> <p>21 MR. MONTCLARE: On behalf of --</p> <p>22 MR. WOLFSOHN: -- we agree.</p> <p>23 MR. MONTCLARE: Paul Montclare for</p> <p>24 Harrison Erickson, we agree.</p> <p>25 THE VIDEOGRAPHER: This marks the</p>	<p style="text-align: right;">Page 5</p> <p>1 Confidential - D. Buck</p> <p>2 beginnings -- the beginning of the</p> <p>3 videotaped deposition of Dave Buck, being</p> <p>4 taken in the matter of The Phillies, et al.</p> <p>5 v. Harrison/Erickson Incorporated, et al.</p> <p>6 The deposition is being taken on</p> <p>7 April 23rd, 2020 at approximately 8:43 a.m.</p> <p>8 My name is Chris Jordan with TSG</p> <p>9 Reporting. The court reporter is Debra</p> <p>10 Lyons.</p> <p>11 Will counsel, please, state your</p> <p>12 name for the record.</p> <p>13 MR. WOLFSOHN: David Wolfsohn, Duane</p> <p>14 Morris --</p> <p>15 MR. MONTCLARE: This is Paul</p> <p>16 Montclare.</p> <p>17 MR. WOLFSOHN: -- LLP for The</p> <p>18 Phillies.</p> <p>19 MR. MONTCLARE: Paul Montclare for</p> <p>20 Harrison/Erickson.</p> <p>21 COURT REPORTER: Is there anyone</p> <p>22 else present on --</p> <p>23 MR. WILLIAMS: Matthew Williams for</p> <p>24 Harrison/Erickson.</p> <p>25 MS. NGUYEN: Elaine Nguyen for</p>

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<p style="text-align: right;">Page 78</p> <p>1 Confidential - D. Buck</p> <p>2 about any of the facts in the Complaint before</p> <p>3 it was filed?</p> <p>4 A. No.</p> <p>5 Q. Did you review any documents</p> <p>6 related to any of the facts in the Complaint</p> <p>7 before it was filed?</p> <p>8 A. Yes. I -- at that point, once</p> <p>9 this started coming out, I started looking at</p> <p>10 documents, correct.</p> <p>11 Q. And what documents -- do you</p> <p>12 recall what documents you looked at prior to</p> <p>13 the Complaint being filed? I think you</p> <p>14 answered --</p> <p>15 A. I'm trying to look through it</p> <p>16 right now.</p> <p>17 Q. It's a lengthy document.</p> <p>18 A. I mean, I looked at --</p> <p>19 Q. We don't have a lot --</p> <p>20 A. Yeah. Yeah, I -- I'm -- I'm kind</p> <p>21 of anal that way. Like, I started looking up</p> <p>22 documents with this. I looked up the Winnie</p> <p>23 the Pooh. I looked up Paddington Bear. I</p> <p>24 mean, I -- I like to do my research, so I</p> <p>25 don't know -- I looked at a lot of different</p>	<p style="text-align: right;">Page 79</p> <p>1 Confidential - D. Buck</p> <p>2 stuff, yes.</p> <p>3 Q. If you go Paragraph 7 of that</p> <p>4 Complaint, which is on Page 2 --</p> <p>5 A. Yes.</p> <p>6 Q. -- it says in the first sentence,</p> <p>7 "Over the last 41 years, the Club has devoted</p> <p>8 millions of dollars to developing and</p> <p>9 promoting the Phanatic."</p> <p>10 Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. Do you know where that information</p> <p>13 came from at the time the Complaint was filed?</p> <p>14 A. I bet I got the salary information</p> <p>15 for Dave and Tom. I -- I assume Scott and</p> <p>16 Chrissy -- Scott and Chrissy keep a ton of the</p> <p>17 records, did all the promotions and all the</p> <p>18 repairs and buying the costumes, and Tom</p> <p>19 Burgoyne obviously.</p> <p>20 Q. Did you -- do you know what the</p> <p>21 word "developing" means in that sentence I</p> <p>22 just read?</p> <p>23 A. Yes, all the -- it's actually fun</p> <p>24 to watch at times, to watch them develop the</p> <p>25 skits and what they do at the ballpark and the</p>
<p style="text-align: right;">Page 80</p> <p>1 Confidential - D. Buck</p> <p>2 outfits that they're going to dress up in and</p> <p>3 so forth. They spend a lot of time on that.</p> <p>4 Q. So Mr. Raymond retired as the</p> <p>5 Phanatic in 1994; is that correct?</p> <p>6 A. I don't know if it was '93 or '94,</p> <p>7 but, yes. '94 it says here, yes.</p> <p>8 Q. Did The Phillies have any business</p> <p>9 with Mr. Raymond between then and the time</p> <p>10 this Complaint was filed?</p> <p>11 A. Any business. Maybe his company</p> <p>12 had a mascot, Sport, and maybe Sport and the</p> <p>13 Phanatic appeared at Minor League together,</p> <p>14 but it wouldn't have been a lot.</p> <p>15 Q. Do you know if The Phillies and --</p> <p>16 and Mr. Raymond had entered into any</p> <p>17 contracts --</p> <p>18 COURT REPORTER: I'm sorry. I'm</p> <p>19 sorry. Excuse me. Mr. Montclare. Mr.</p> <p>20 Montclare, please ask that again. I missed</p> <p>21 a word.</p> <p>22 MR. MONTCLARE: I did that. I</p> <p>23 covered up the phone. Sorry.</p> <p>24 BY MR. MONTCLARE:</p> <p>25 Q. Do you know if -- if Mr. -- if</p>	<p style="text-align: right;">Page 81</p> <p>1 Confidential - D. Buck</p> <p>2 Mr. Raymond and The Phillies entered into any</p> <p>3 contracts between 1994 and the date this</p> <p>4 Complaint was filed?</p> <p>5 A. We did not or I don't know of any.</p> <p>6 We did not.</p> <p>7 Q. To your knowledge, did Mr. Raymond</p> <p>8 ever write down any skits or things that he</p> <p>9 did on the field in terms of a script or</p> <p>10 something like that?</p> <p>11 A. I would have no idea what he did.</p> <p>12 Q. You've never seen any such</p> <p>13 document; correct?</p> <p>14 A. Correct.</p> <p>15 Q. Do you know if The Phillies ever</p> <p>16 sought a copyright for anything relating to</p> <p>17 the Phanatic?</p> <p>18 A. Yes.</p> <p>19 Q. When was that?</p> <p>20 A. Oh, I don't know. We -- we had</p> <p>21 issues with Major League Baseball and the</p> <p>22 style guide and then the star on the back.</p> <p>23 Converse was getting all -- or MLB would not</p> <p>24 produce things 'cause of the star on the back</p> <p>25 of the -- of the Phanatic's jersey. So we had</p>

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<p style="text-align: right;">Page 82</p> <p>1 Confidential - D. Buck</p> <p>2 to get, I don't know the right word, copyright</p> <p>3 or whatever, with -- with the word "Phanatic"</p> <p>4 above the star.</p> <p>5 Q. Was that a copyright or was that a</p> <p>6 trademark or don't you know?</p> <p>7 A. I don't really know the difference</p> <p>8 to be honest.</p> <p>9 Q. Okay. To your knowledge, that</p> <p>10 prior to this Complaint being filed there was</p> <p>11 any copyright filing with respect to trying to</p> <p>12 copyright the character of the Phanatic?</p> <p>13 THE WITNESS: Debbie, could you</p> <p>14 repeat that?</p> <p>15 COURT REPORTER: Yes.</p> <p>16 MR. MONTCLARE: Can you repeat it,</p> <p>17 please?</p> <p>18 (The following portion of the record</p> <p>19 is read by the Court Reporter:</p> <p>20 "QUESTION: To your knowledge, that</p> <p>21 prior to this Complaint being filed there</p> <p>22 was any copyright filing with respect to</p> <p>23 trying to copyright the character of the</p> <p>24 Phanatic?")</p> <p>25 THE WITNESS: Not to my knowledge.</p>	<p style="text-align: right;">Page 83</p> <p>1 Confidential - D. Buck</p> <p>2 BY MR. MONTCLARE:</p> <p>3 Q. Prior to the filing of the</p> <p>4 Complaint, did The Phillies ever attempt to</p> <p>5 copyright any design of the Phanatic?</p> <p>6 A. I don't know the answer to that.</p> <p>7 I mean, we did designs all the time that Major</p> <p>8 League Baseball made us do. I thought they</p> <p>9 got copyrighted to fix the style guide.</p> <p>10 Q. And you think that Major League</p> <p>11 Baseball copyrighted something relating to the</p> <p>12 Phanatic?</p> <p>13 A. No. No. They make the teams do</p> <p>14 everything.</p> <p>15 Q. And as -- just so I understand</p> <p>16 your -- your testimony, you don't remember The</p> <p>17 Phillies filing any copyrights with respect to</p> <p>18 the design of the Phanatic at any time?</p> <p>19 A. I do not remember that.</p> <p>20 Q. Do you -- have you ever seen a</p> <p>21 copyright filed on behalf of The Phillies for</p> <p>22 anything relating to the Phanatic prior --</p> <p>23 excuse me, prior to the -- to this Complaint</p> <p>24 being filed?</p> <p>25 A. No.</p>
<p style="text-align: right;">Page 84</p> <p>1 Confidential - D. Buck</p> <p>2 Q. Did you have an agreement,</p> <p>3 Mr. Raymond, an employment agreement with</p> <p>4 Mr. Raymond while he was there?</p> <p>5 A. Before 1994?</p> <p>6 Q. Yes.</p> <p>7 A. I don't know if he had a contract</p> <p>8 or not.</p> <p>9 Tom Burgoyne has one. I don't</p> <p>10 know if Dave did.</p> <p>11 Q. Do you know whether -- did you</p> <p>12 ever have any discussion with Mr. Raymond</p> <p>13 prior to the filing of this Complaint as to</p> <p>14 who owned any copyright interest in the</p> <p>15 Phanatic?</p> <p>16 A. I did not, no.</p> <p>17 Q. Did he ever claim to you he owned</p> <p>18 any copyright interest in the Phanatic?</p> <p>19 A. No.</p> <p>20 Q. Did he ever tell you that The</p> <p>21 Phillies owned any copyright interest in the</p> <p>22 Phanatic?</p> <p>23 A. We never talked about it, no.</p> <p>24 Q. And you've never seen the</p> <p>25 copyright interest filed on behalf of The</p>	<p style="text-align: right;">Page 85</p> <p>1 Confidential - D. Buck</p> <p>2 Phillies relating to the Phanatic prior to</p> <p>3 this Complaint; correct?</p> <p>4 A. Correct.</p> <p>5 Q. Would you agree that all the</p> <p>6 copyright interests that were held by The</p> <p>7 Phillies subsequent to 1984 were the result of</p> <p>8 the assignment given by Harrison Erickson to</p> <p>9 The Phillies in the 1984 agreement that's</p> <p>10 actually attached as Exhibit G to this</p> <p>11 Complaint?</p> <p>12 MR. WOLFSOHN: Objection, call -- to</p> <p>13 the extent it's calling for a legal</p> <p>14 conclusion and lack of foundation.</p> <p>15 And also don't -- to the extent that</p> <p>16 your answer would be revealing any</p> <p>17 attorney-client communications, you</p> <p>18 shouldn't answer it.</p> <p>19 BY MR. MONTCLARE:</p> <p>20 Q. You can answer the question.</p> <p>21 A. I didn't know who owned what or</p> <p>22 anything. The assumption working there for</p> <p>23 30 years is The Phillies own the Phanatic.</p> <p>24 That something happened in the early '80s and</p> <p>25 we bought all the rights back. So I don't</p>

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<p style="text-align: right;">Page 190</p> <p>1 Confidential - D. Buck</p> <p>2 contributions by The Phillies with respect to</p> <p>3 the Phanatic costume? And, please, identify</p> <p>4 each and every one of them that you're</p> <p>5 claiming.</p> <p>6 A. The concept of a big, fat, green,</p> <p>7 funny, G-rated, big nose.</p> <p>8 Q. Is that reflected in any of the</p> <p>9 documents you reviewed in connection with</p> <p>10 being prepared to respond to this on behalf of</p> <p>11 The Phillies?</p> <p>12 A. It's in one document. It's also</p> <p>13 what I've known over 35 years of working for</p> <p>14 The Phillies.</p> <p>15 Q. You've known how? How have you</p> <p>16 known it?</p> <p>17 A. Through stories. Through the</p> <p>18 history. Through --</p> <p>19 Q. Well, Mr. Giles' stories where he</p> <p>20 takes credit for what other people do?</p> <p>21 MR. WOLFSOHN: Objection.</p> <p>22 BY MR. MONTCLARE:</p> <p>23 Q. You read his testimony. He</p> <p>24 testified to that.</p> <p>25 A. Yeah, I don't believe he took</p>	<p style="text-align: right;">Page 191</p> <p>1 Confidential - D. Buck</p> <p>2 credit for it. I absolutely believe he was a</p> <p>3 big part of it. There's no way -- I mean, I</p> <p>4 believe Bill Giles' story.</p> <p>5 Q. Which one is that? Which story</p> <p>6 are you talking about? The story in his book,</p> <p>7 story he told --</p> <p>8 A. The story that I heard this --</p> <p>9 (Crosstalk.)</p> <p>10 COURT REPORTER: I didn't hear the</p> <p>11 end.</p> <p>12 THE WITNESS: The story that I've</p> <p>13 heard many times over the years. Same</p> <p>14 story. Didn't change.</p> <p>15 BY MR. MONTCLARE:</p> <p>16 Q. Aside from you hearing that story,</p> <p>17 is there any other information within the</p> <p>18 possess -- possession, custody, control or</p> <p>19 knowledge of The Phillies that support that</p> <p>20 conclusion that you just stated on behalf of</p> <p>21 The Phillies' organization?</p> <p>22 MR. WOLFSOHN: And this is not --</p> <p>23 THE WITNESS: There's no other</p> <p>24 document, but his book.</p> <p>25 (Crosstalk.)</p>
<p style="text-align: right;">Page 192</p> <p>1 Confidential - D. Buck</p> <p>2 COURT REPORTER: Excuse me. Just a</p> <p>3 second. One at a time, please.</p> <p>4 MR. WOLFSOHN: Outside the scope of</p> <p>5 the topic, but you can answer in your</p> <p>6 personal capacity.</p> <p>7 THE WITNESS: There's no other --</p> <p>8 BY MR. MONTCLARE:</p> <p>9 Q. Did you --</p> <p>10 A. -- document, but for his book.</p> <p>11 Q. Did you do anything to fact check</p> <p>12 the print in his book?</p> <p>13 It wasn't an affidavit, was it?</p> <p>14 It's just a book.</p> <p>15 A. It's just a book --</p> <p>16 MR. WOLFSOHN: Objection --</p> <p>17 THE WITNESS: -- yes.</p> <p>18 MR. WOLFSOHN: -- compound.</p> <p>19 COURT REPORTER: Objection?</p> <p>20 BY MR. MONTCLARE:</p> <p>21 Q. Other than looking at his book --</p> <p>22 COURT REPORTER: Just a second.</p> <p>23 Objection. I didn't -- excuse me. I</p> <p>24 didn't hear the full objection.</p> <p>25 MR. WOLFSOHN: Compound.</p>	<p style="text-align: right;">Page 193</p> <p>1 Confidential - D. Buck</p> <p>2 COURT REPORTER: Thank you.</p> <p>3 BY MR. MONTCLARE:</p> <p>4 Q. Other than his book, is there any</p> <p>5 other writing that you came across within The</p> <p>6 Phillies' books and records?</p> <p>7 A. No.</p> <p>8 Q. Did you make a search?</p> <p>9 A. There's nothing to search.</p> <p>10 Q. Because there are no documents</p> <p>11 that say that, right, other than his book?</p> <p>12 A. Correct.</p> <p>13 Q. Is that your complete --</p> <p>14 withdrawn.</p> <p>15 Is there any other -- is there any</p> <p>16 other information that you gleaned --</p> <p>17 withdrawn.</p> <p>18 Is there any other information</p> <p>19 that you can give us on behalf of The Phillies</p> <p>20 with regard to the creative contributions of</p> <p>21 The Phillies to the Phanatic costume?</p> <p>22 A. No, just that I saw the original</p> <p>23 drawing of the Phanatic, which is not that</p> <p>24 good, so I know we made lots of changes to it.</p> <p>25 Q. Actually, I'm not going to go back</p>

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<p style="text-align: right;">Page 194</p> <p>1 Confidential - D. Buck</p> <p>2 and forth to look at those document. I know</p> <p>3 the one you're talking about. Was that</p> <p>4 previously marked in a deposition?</p> <p>5 Can you show me where that --</p> <p>6 what -- tell me what document you're talking</p> <p>7 about specifically? Do you have it?</p> <p>8 Do you have -- can you make</p> <p>9 specific reference to it?</p> <p>10 MR. WOLFSOHN: Objection, compound.</p> <p>11 THE WITNESS: Do I know where it is</p> <p>12 in the deposition? I do not, no.</p> <p>13 BY MR. MONTCLARE:</p> <p>14 Q. What early drawing are you talking</p> <p>15 about? Can you identify it?</p> <p>16 A. I don't even know if it's a water</p> <p>17 color. It's -- it's a precursor of the</p> <p>18 Phanatic.</p> <p>19 Q. And who drew that?</p> <p>20 A. I'm assuming Bonnie. I thought it</p> <p>21 was at her deposition. I don't know.</p> <p>22 Q. I don't mean -- I don't mean to --</p> <p>23 well, you're testifying on behalf of The</p> <p>24 Phillies as to all The Phillies' information,</p> <p>25 so what -- so you said the book and this</p>	<p style="text-align: right;">Page 195</p> <p>1 Confidential - D. Buck</p> <p>2 drawing. I think I know the drawing you're</p> <p>3 talking about. I just want to be sure. It's</p> <p>4 something that came up at Bonnie's deposition?</p> <p>5 A. I -- I'm not testifying of what</p> <p>6 came up at Bonnie's deposition, no.</p> <p>7 Q. All right. Anything else besides</p> <p>8 those two things?</p> <p>9 A. No.</p> <p>10 Q. Okay. Going to 10, Roman Numeral</p> <p>11 x on the next page, which is, "The Phillies'</p> <p>12 efforts to promote and advertise the Phanatic</p> <p>13 and derivatives thereof, including the amount</p> <p>14 spent per year and in total."</p> <p>15 Do you see that?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. Did you -- withdrawn.</p> <p>18 Did -- what information do -- do</p> <p>19 The Phillies have with respect to that subject</p> <p>20 matter?</p> <p>21 A. We produced a spreadsheet for you.</p> <p>22 Q. Okay. All right. How many</p> <p>23 spreadsheets?</p> <p>24 A. I think it was an Excel document</p> <p>25 with four pages. It talks about salaries,</p>
<p style="text-align: right;">Page 196</p> <p>1 Confidential - D. Buck</p> <p>2 promotions.</p> <p>3 Q. Hold on. Do you know when that</p> <p>4 was provided to us?</p> <p>5 A. Yesterday, I believe.</p> <p>6 MS. NGUYEN: If you're referring --</p> <p>7 yeah, I -- I -- I have it if you want me to</p> <p>8 pull it up.</p> <p>9 MR. MONTCLARE: Yeah, can you try to</p> <p>10 do that.</p> <p>11 BY MR. MONTCLARE:</p> <p>12 Q. It was yesterday?</p> <p>13 A. Yes.</p> <p>14 MR. MONTCLARE: Okay. Pull it up,</p> <p>15 please.</p> <p>16 MS. NGUYEN: Mr. Buck, you're</p> <p>17 referring to a four-page document, right,</p> <p>18 not a few-page salary document?</p> <p>19 THE WITNESS: It's four pages, I</p> <p>20 believe.</p> <p>21 MS. NGUYEN: Okay. Hold on one</p> <p>22 second.</p> <p>23 THE WITNESS: One page is</p> <p>24 promotions. One page is -- maybe two are</p> <p>25 salaries. And one is costume repairs.</p>	<p style="text-align: right;">Page 197</p> <p>1 Confidential - D. Buck</p> <p>2 (Pause.)</p> <p>3 (Exhibit D-114, spreadsheet bearing</p> <p>4 Bates Numbers PHAN0011315, is marked for</p> <p>5 identification.)</p> <p>6 THE WITNESS: That's it.</p> <p>7 MR. MONTCLARE: Okay. Did you</p> <p>8 receive that? I don't know if I have it.</p> <p>9 The name --</p> <p>10 MS. NGUYEN: That's Number 3 on our</p> <p>11 list, Paul.</p> <p>12 MR. MONTCLARE: Okay. Okay.</p> <p>13 BY MR. MONTCLARE:</p> <p>14 Q. Okay. So this is a document that</p> <p>15 was served as an Excel sheet that we got</p> <p>16 yesterday, and the Excel -- the cover sheet is</p> <p>17 Bates Stamp Number F-A -- PHAN, rather,</p> <p>18 0011315.</p> <p>19 Is that the document -- is this</p> <p>20 the document you were referring to?</p> <p>21 A. Yes.</p> <p>22 Q. Is that the only information that</p> <p>23 you have with respect to that particular Topic</p> <p>24 Number 10?</p> <p>25 A. Well, that says "promote and</p>